

Editor's note: Reconsideration denied by order dated May 11, 1983

PAUL H. LANDIS

IBLA 81-148

Decided January 28, 1982

Appeal from determination by the Eastern States Office, Bureau of Land Management, rejecting oil and gas lease offer ES 24130.

Affirmed.

1. Oil and Gas Leases: Applications: Drawings--Oil and Gas Leases:
Rentals

Where, following a drawing of simultaneously filed oil and gas lease offers, a priority applicant fails to submit advance rental within 30 days after receipt of a notice that payment was due, disqualification of the offer is automatic.

APPEARANCES: Paul H. Landis, pro se.

OPINION BY ADMINISTRATIVE JUDGE LEWIS

Paul H. Landis has appealed from a September 26, 1980, decision of the Eastern States Office, Bureau of Land Management (BLM), which rejected his simultaneous oil and gas lease offer ES 24130 because rental was not timely received as required by 43 CFR 3112.4-1(a).

Appellant's offer was drawn with first priority for parcel ES-28 in January 1980.

On July 28, 1980, appellant's agent 1/ received from BLM a notice (form ES 3112-3 (May 1980)) which advised him that his simultaneous oil and gas lease application was drawn with first priority, and that he must file a statement certifying as to his qualifications to hold an oil and gas lease. The last paragraph on the back page of this undated notice, states:

1/ The return receipt contains an illegible signature and is marked "authorized agent."

In addition, in accordance with 43 CFR 3112.4-1, payment of the first year's rental as shown below must be received in this office within 30 days from receipt of this Notice. The first year's rental shall be paid only by the applicant, or his/her attorney-in-fact as described in 43 CFR 3112.4-1(b). [2/]

<u>County No.</u>	<u>Acreage</u>	<u>Rental Due</u>
153	78.63	\$79.00

If the rental is not paid within the time allowed, you will be automatically disqualified to receive the lease.

Appellant submitted the required certification of his qualifications to hold a Federal oil and gas lease on July 31, 1980.

By letter dated September 19, 1980, appellant wrote BLM as follows:

A neighbor has just called my attention to billing on the back side of mimeographed form letter undated with an oath questionnaire attached, similar to that used by all offices. Other offices have consistently billed with the standard form 3112-4 (June, 1974) which is a clear statement "NOTICE OF RENTAL DUE" and accompanied by a carbon duplicate for winner's file.

This is to request billing in the proper form. Should you refuse to honor this request, I hereby ask that this complaint be filed with the INTERIOR BOARD OF LAND APPEALS for assignment of a case number and a hearing.

BLM's response to this letter was the determination appealed herein, which rejected appellant's offer and stated that the second priority drawee was being considered for this offer.

Appellant's statement of reasons repeats the assertions of his September 19, 1980, letter. Appellant contends that he did not receive proper notice of rental due.

2/ The regulations governing the simultaneous oil and gas leasing program were revised shortly before BLM issued its notice to appellant. 45 FR 35163 (May 23, 1980). The former regulations provided for only a 15-day notice of rental due.

[1] The applicable regulation 43 CFR 3112.4-1(a) reads as follows:

§ 3112.4-1 The lease offer and payment of first year's rental.

(a) The lease agreement, consisting of a lease form approved by the Director, Bureau of Land Management, and stipulations included on the posted list or later determined to be necessary, shall be forwarded to the first qualified applicant for signing, together with a request for payment of the first year's rental. Only the personal handwritten signature of the prospective lessee, or his/her attorney-in-fact as described in paragraph (b) of this section, in ink shall be accepted. The first year's rental shall be paid only by the applicant, or his/her attorney-in-fact as described in paragraph (b) of this section. The executed lease agreement and the applicant's rental payment shall be filed in the proper Bureau of Land Management office within 30 days from the date of receipt of notice. Timely receipt of the properly signed lease and rental constitutes the applicant's offer to lease.

The BLM notice gave appellant 30 days to submit his rental payment. Appellant's offer was properly rejected by BLM when his rental was not received timely. Keith B. Livermore, 59 IBLA 232 (1981). Appellant can hardly claim he did not receive proper notice that the rent was due because he did not receive a separate notice of rental due. There is no requirement that the notice of rental due be on a particular form. Keith B. Livermore, *supra*. The BLM notice clearly specified that a rental payment was due and pointed out the significance of failure to pay timely. Appellant must bear the consequences for his inadvertence in failing to read or heed the entire notice. ^{3/} Accordingly, BLM properly rejected the offer consistent with the Department's traditionally strict enforcement of the requirements of the regulations governing simultaneous oil and gas leasing procedures. See Robert E. Bergman, 53 IBLA 122 (1981); see also Vincent M. D'Amico, 55 IBLA 116, 118 (1981).

^{3/} It is noteworthy that the text of the notice on the front of the page is broken in mid-sentence at the end of the bottom line and continued on the reverse side of the page where the rental information also appears. Thus, one who read the front page would find the last sentence incomplete, and would normally be expected to look for the continuation, which would easily be discovered on the back.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is affirmed.

Anne Poindexter Lewis
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Edward W. Stuebing
Administrative Judge

